



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

March 9, 2018

17-79
ADOPTED/FILED

MAR - 9 2018

Federal Communications Commission
Office of the Secretary

Thomas M. Johnson, Jr.
General Counsel
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Federal Communications Commission NEPA Implementing Procedures

Dear Mr. Johnson:

Thank you for consulting with the Council on Environmental Quality (CEQ) on the clarification to the National Environmental Policy Act (NEPA) implementing procedures for the Federal Communications Commission (FCC). The CEQ regulations provide that agencies, in consultation with CEQ, develop agency-specific procedures to implement NEPA and revise them as necessary to ensure full compliance with the purposes and provisions of NEPA. 40 C.F.R. § 1507.3. The FCC proposed changes to its NEPA procedures, Title 47 CFR Part 1, as part of a Notice of Proposed Rulemaking (NPRM) published in the Federal Register on May 10, 2017, 82 FR 21761. The NPRM proposed clarifying when an Environmental Assessment (EA) is required for a facility located in the floodplain to remove the EA requirement for "siting in a floodplain when appropriate engineering or mitigation requirements have been met." *Wireless Infrastructure NPRM*, 32 FCC Red 3330 at 3352-53, para. 65 (2017).

As part of the consultation with CEQ, the FCC took into consideration public comments received in response to the NPRM, as reflected in the March 1, 2018 public draft of the Second Report and Order In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment (Second Report and Order), WT Docket No. 17-79, circulated for the FCC's consideration at its March 22, 2018 open meeting. The revisions to the FCC NEPA implementing procedures would clarify that an EA must be prepared for facilities located within the floodplain, except when the facility is elevated at least one foot above the base flood elevation. Specifically, the amended FCC NEPA procedure would require an EA for "facilities to be located in floodplains, if the facility will not be placed at least one foot above the base flood elevation of the floodplain." Based on our consultation and the FCC record, as described in the public draft of the Second Report and Order, CEQ concludes that this FCC amendment to its NEPA procedures is in conformity with NEPA and the CEQ regulations implementing the procedural provisions of NEPA.

Thank you for your responsiveness to our comments and recommendations.

Sincerely,

A handwritten signature in dark ink, appearing to read 'E. A. Boling', with a long, sweeping horizontal stroke extending to the right.

Edward A. Boling
Associate Director for NEPA